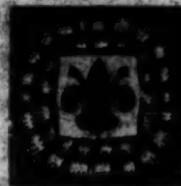


CERTAINE  
ASSAYES

Propounded to the consideration  
of the Honourable COMMITTEE for  
regulating the proceedings at Law.

Whereby it is made evident that  
most Cases now determined in *Chancery*  
and other *Courts of Equity*, may be  
reduced to Tryall at *Law*.

To the great ease and benefit of the  
**COMMONWEALTH.**



LONDON,  
Printed for Thomas Creake. 1650.

CERTAIN

# ASSAYES

Belonging to the collection  
of the Honourable C O M M I T T E D for  
keeping the Procedings at the

Whereby it is made evident that  
most Care now determined in preparing  
any other Country's Paper  
is applied to This

To the great ease and pecuniary benefit of the  
COMMONWEALTH.

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London

Brought to the publick by J. & C. S.

TO THE right hon<sup>r</sup>ble the  
**RIGHT HONOURABLE**  
 the COMMITTEE appointed  
 for the regulating proceedings  
 at LAW.

May it please your Honour, to oblige us to inform you  
 concerning the taking to consider the great  
 delay and change that continually  
 happens in the Cylm by  
 improvident and怠慢的 men in their  
 business, and considering the flouri-  
 shing condition of the Common  
 Law, even in the Secundary lawes of the  
 Edwards, and for some good space after which  
 few, or rather no small were determined in an equi-  
 table course: and finding the inconveniency of them  
 at this day, which no man can wonder at, when the  
 Lord chiefe Justice Fairfax in their infancy com- 21 E. 4. 232.  
 plained against them, and the pleaders or Counse-  
 lers

less that promoted them, the same being much  
 more proper for action of the Law, and also  
 also observing the great care former Parliaments  
 have used to prevent such practices as formerly  
 appears by the ACT of 27. H. 8. of transferring  
 uses, 13 Eliz. for suppressing frauds, and divers  
 other & sundry statutes implied in it  
 passed in order to regulating the proceedings at  
 Law, many of which you have been pleased to  
 take into consideration, both made me to adventure  
 upon your clemencies this once more, by submitting  
 these second considerations to your judgment, effe-  
 cting my fulfilleing by your paternage and favouring  
 the same with your own and labours, something may  
 probably be produced to the benefit of the Common-  
 wealth, and the Common Law cleared of many  
 difficulties (by slender and) cast upon it, by reason of  
 uncertainty and difficulty proceeding in all Courts of  
 Equity - notwithstanding growth of the number of  
 suits heretofore been sued in law, either  
 - into or in chancery. Your most humble servant  
 made so much trouble to you, and we willer  
 to do better, to whom this matter is due, I will  
 - now readily make up this loss of your time  
 - to you, and thank you for your trouble. The  
 150. E. 12. 151

(15)

These Assayses to the value of the same to be offered for the

The Assayses follow:—  
 1. That it be proposed that all Copyholds be  
 held of the Lord of Freshfield and Commissioned by him  
 to be signed into all Counties, with rules for the setting  
 downe rates betweene Lord and Tenancy, and that all  
 Lands, &c. may be devisorale and decomitale at  
 Common Law, and with actiones to be had for the delay  
 in payment. That the execution and perfecting of all Con-  
 tracts and agreements for Lands, &c. may be com-  
 pelled at Common Law upon Action of the Cestum  
 plus Action in Chancery, with damage only to be taxed  
 for the delay; and that all mean Estates and privy-  
 eys may be bound that are either parties to said sale or  
 the judgement by Scire facias.

2. That tises and trusts be transferred of Leases  
 for years, debts, goods, &c. as it is now of Household  
 by 27/1/8, with some provision that the lessors  
 estate may not merge in the Freshfield by the pre-  
 dicide of the partie.

3. That Legacies may be sued for, Mortgagors and  
 obligors relieved from the burden of Tythes re-  
 coverable at law by the Common Law, as formerly  
 proposed.

4. That such proofs of Death, &c. as were allowed  
 &c. may be allowed at law as is now in equity.

5. That speciall actions of the bate may be brought  
 at Law in all recoverable cases, according to the Lord  
 Fairfayre his advice in the 35 Edward 111. 2d Statute.

6. That the Water of Joyntunes, &c. may not  
 survive, and they and their executors may have spe-  
 ciall

ciall actions of the case against each other for all E-  
quitable injuries.

8. That imperfect and deficient conveyances  
made upon valuable and good consideration may  
be allowed at Law according to the intent of the  
parties expressed or proved, and that an action of  
the case may lie against the partie and his heire, &c.  
to compell them to make good the same.

9. That Joint-sureties may have actions of the  
Case against each other for contribution, and against  
the principall in the nature of a Writ de plights acqui-  
etandi to be discharged from engagements.

10. That ~~ten~~ *compar meint* may have the plea in  
his own person.

11. That waft and remedy for Rent may be had  
by the Purchaser against the Tenant, after notice ;  
and the Reversion passe as well without as with at-  
tachment, in all cases.

12. That union of possession within memory, and  
above 60 yester, may not prevale against usage by  
all the time of present memory, but that prescrip-  
tion therein may be allowed.

13. That where deeds, &c. belong to two or more,  
and are kept by one in trust for the rest, and not pro-  
duced upon reasonable request, upon trials, &c.  
(charges being tendered) for the defence of the com-  
mon title, that an action of the case may lie to re-  
cover the deeds and damage.

14. That detinue may lie for deeds, &c. though  
the date be not known, and that like Action may lie  
for the trustor against the trustee ; for deeds, &c. and  
that the release or discharge of the trustee without  
con-

consent of the trustees may not be valid, where either the trust is expressed or known; and that Assignees of Statutes, Judgements, Recognizances, Bonds, Bills, Debts, &c. made for valuable consideration, and not for maintenance may sue the same in their own names, and discharge them at pleasure; and that the release or discharge of the assignee after notice shall not be valid; and that if the assignor notwithstanding such notice shall sue, &c. garnishment shall lie; and intrepleading as now used in detinue, &c.

36. That upon bills of discovery the Plaintiff may proceed no further than to Bill and Answer, and in examining the Defendant upon Interrogatories, if the Cause or partie desire it, and then the Answers to be used at Comm<sup>r</sup>g<sup>r</sup> law.

37. That Depositions of witnessess in perpetuall memory may presently be published and used upon Trials for the cause of the Client, where the witnessess be sick, impotent, far distant, or doe not appear upon due service, or for other reasonable cause.

18. That Costs and Damages may be given to the parties, where they are staid by Injunction, for delay or upon unjust or untrue furnishes, as was anciently; as appears by 21 E.4. 74. and the same to be ascertained by the oath of the party, or other competent witnessess.

19. That Fee-farmes, Herlots, &c. may be good in Law, as they were before the Statute of *quia emptores terrarum*, and are at this day decreed in equity.

20. That in case any Court of Equity shall proceed in any cause wherein there is or shall be proper remedy

rein'd y'rs & I am very much desirous that you would  
prohibit them as anciently and before as you can  
the publication of any recoverable value. And if you  
will do so, I will give you a sum of £1000.00  
to pay your post charges, & the postage of the  
Proprietary of the following  
knowledg his book weekly and without charge  
postage any thing of this kind; And know by these  
spc. summe nature is as heretofore and to  
institute a mode and quare the Amherst being the son  
of distinguished that hath been proposed; And being  
willing to offer his mite at the time of so worthy  
work; truly and heartily desire the Reader that  
will finde my thing herein that he will not  
be inconveniencient, that he will then either to print  
or publickly make his Amherst Venerous; With his  
sons; or if he shall think fit to add more or less  
by imprefation, as it will be a very acceptible  
work to the Common wealth of the world  
and I am truly desirous that it may be done  
as per my importune, for diffidence to goe out  
of me.

Upon these **8** 81. terms Costs and Damages may be given to the  
parties whose right is thus plainly injured for defray  
of upon any sum of money to an attorney who has incurred  
any expences per act of the law or other consequence  
arising out of the same, and to the party who has  
witnessed.

12. That the fees for the service of a Lawyer be good in  
law as much as the party employing him out of any sum paid  
him for his services, and to this sum a collection is due.

13. That in case any party sues another to recover  
any sum in any cause where the party sues shall be propter  
recovered.